

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Magnus PELZ et al.

Serial No.: 10/598,706

Filed: September 26, 2006

For: ARRANGEMENT FOR RECIRCULATION OF EXHAUST GASES OF A SUPER-CHARGED INTERNAL COMBUSTION ENGINE

Confirmation No.: 9161

Date: October 16, 2008

Group Art Unit: 3748

Examiner: Douglas J. Duff

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VIA EFS-WEB

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**AMENDMENT/SUBMISSION**

Sir:

Applicants respond to the Office Action in the above application by asserting the claim to priority through its PCT International Application, back to its Swedish Priority Application No. 0400857-9 with the priority filing date in Sweden of March 31, 2004. The PCT International Application claims the Swedish priority. A certified copy of the Swedish priority document was filed with the PCT International Bureau and receipt of the necessary copy was acknowledged in the Notice of Acceptance.

Claims 1-5,8 and 10 of the present application are rejected as anticipated over PCT/EP03/12223, which led to the U.S. Patent Publication to Eitel, which was published September 15, 2005 and issued into United States Patent 7,059,308.

Claims 6, 7 and 9 are rejected as obvious over Eitel in view of a U.S. Patent to Wall.

Reconsideration of both rejections is requested because Applicants' Swedish priority predates the earliest effective date as a reference of the Eitel publication which is the only reference in the first rejection and the principal reference in the second rejection.

The effective filing date of the Eitel patent, of U.S. publication and of the PCT International Application on which Eitel is based is June 17, 2004, which is three months after Applicants' Swedish priority date.

A copy of part of International Publication of Eitel No. WO 2004/051069 is attached. Its two cover sheets and the first page of the International Publication are attached to show that Eitel's International Application was published June 17, 2004 in the German language.

Under MPEP 706.02(f)(1)(C)(2), the effective filing date of Eitel's PCT Publication as prior art is June 17, 2004. Its section 102(e) date is December 9, 2004. To Applicant's knowledge, its first date of publication was June 17, 2004. The publication date of its German priority Application No. 102 56 611 would have been 18 months after its filing, or in June 2004. Based on a search made by the undersigned, no German application publication occurred.


In support of Applicant's priority claim, a verified translation of the original Swedish Priority Application is enclosed. The PCT Application was the basis of the present United States Application. The Notice of Acceptance indicated that the priority document had been received, so Applicant is not supplying another certified copy of the Swedish priority application.

In view of the elimination of Eitel as a properly cited reference and there being no other ground of rejection of the claims, allowance of the claims is requested.

Respectfully submitted,

THIS CORRESPONDENCE IS BEING  
SUBMITTED ELECTRONICALLY  
THROUGH THE PATENT AND  
TRADEMARK OFFICE EFS FILING  
SYSTEM ON OCTOBER 16, 2008.

RCF:ksb



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